

Alabama Workforce Investment System

**Office of Workforce Development
Workforce Development Division
401 Adams Avenue
Post Office Box 5690
Montgomery, Alabama 36103-5690**

July 27, 2004

GOVERNOR'S WORKFORCE DEVELOPMENT DIRECTIVE NO. PY2004-03

SUBJECT: Training and Employment Guidance Letter (TEGL)

1. Purpose. This transmits the following TEGL:

<u>Number</u>	<u>Date</u>	<u>Subject</u>
2-04	7/14/2004	Trade Adjustment Assistance (TAA) Program Reserve Funds
2-03, Change 1	7/14/2004	Alternative Trade Adjustment Assistance (ATAA) for Older Workers Questions and Answers

2. Discussion. TEGL No. 2-04 is to (1) inform states of the availability of Fiscal Year (FY) 2004 Trade Adjustment Assistance (TAA) reserve training funds and job search and relocation allowances for trade-certified individuals; and (2) to transmit forms and instructions for requesting TAA reserve training and job search and relocation allowances.

TEGL No. 2-03, Change 1 is to answer questions related to the administration of the Alternative Trade Adjustment Assistance (ATAA) program.

3. Action. Copies of TEGL No. 2-04 and TEGL No. 2-03, Change 1 are provided for informational and action purposes.

4. Contact. Please direct any questions regarding this information to the Regional Office.



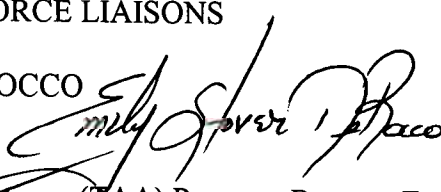
Steve Walkley, Division Director
Workforce Development Division

Attachments

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION TAA
	CORRESPONDENCE SYMBOL ONR
	DATE July 14, 2004

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 2-04

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: EMILY STOVER DeROCCO
Assistant Secretary 

SUBJECT: Trade Adjustment Assistance (TAA) Program Reserve Funds

- Purposes.** (1) To inform states of the availability of Fiscal Year (FY) 2004 Trade Adjustment Assistance (TAA) reserve training funds and job search and relocation allowances for trade-certified individuals; and (2) to transmit forms and instructions for requesting TAA reserve training funds and job search and relocation allowances.
- References.** The Trade Act of 1974, as amended; the Trade Act of 2002 (Pub. L. 107-210) ("the 2002 amendments"); Training and Employment Guidance Letter (TEGL) No. 11-02 (October 10, 2002); TEGL 11-02, Change 1 (November 6, 2003); 20 CFR Part 617; TEGL No. 17-00, Change 1 (July 3, 2003); TEGL No 6-03 (October 1, 2003); Office of Management and Budget Circular A-87; and 29 CFR Parts 96, 97, 98, and 99. The 2002 amendments to the TAA program are also known as the Trade Adjustment Assistance Reform Act of 2002.
- Background.** On October 1, 2003, TEGL 6-03 was issued, which detailed the Department's new formula allocation process for distributing TAA program funds beginning in FY 2004. The guidance letter also shared the Department's plan for the distribution of TAA program reserve training funds.

As outlined in TEGL 6-03, the Department provided \$165 million in TAA training funds under the FY 2004 base allocation. The base allocation was provided in four installments, under continuing resolutions, with the final installment of TAA training funds allotted on March 9, 2004. The remaining \$55 million has been reserved for states that experience large unanticipated layoffs. These funds are available for allocation. In order to be eligible for TAA reserve training funds, states must demonstrate that at least 50 percent of their FY 2004 TAA formula funds have been expended on an accrual basis. This expenditure requirement does not apply to prior year funds. States that have met this requirement and continue to have a demand for TAA services and benefits are encouraged to submit a request for TAA reserve training funds.

RESCISSIONS None	EXPIRATION DATE: Continuing
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In addition, states may also request job search and relocation allowances for trade impacted workers who are unable to find employment within their local commuting area. These funds can also be requested at any time.

4. **Funding Request Submissions.** All requests for TAA reserve training funds and job search and relocation allowances must be submitted to the appropriate regional office, which is responsible for determining reasonableness based upon available information. Requests forwarded by the regional offices will be processed within 15 working days provided such requests contain all of the necessary information needed to make a determination. If additional information is needed by the national office, the processing timeframe will be extended.

The Employment and Training Administration (ETA) has received Office of Management and Budget approval for the collection of financial information on the Standard Form (SF) 424, Application for Federal Assistance and ETA-9117, Trade Adjustment Assistance (TAA) Program Reserve Funding Request Form. *These reports should be used in lieu of the ETA-9023, Trade Adjustment Assistance/NAFTA-TAA Financial Status/Request for Funds form which has expired.*

In accordance with federal requirements and the new operating procedures for the Trade program, states must complete and submit a SF-424 with each request for TAA reserve training funds and job search and relocation allowances. The SF-424 will serve as the initial request for TAA funding, and the ETA-9117 will serve to provide supporting information needed to properly evaluate and assess the request.

States must complete the ETA-9117 to provide information such as the number of participants currently enrolled in the TAA program and the conditions that have made the request for reserve training funds or job search and relocation allowances necessary. Factors that will be taken into consideration during the review of these funding requests will include expenditure of TAA formula funds, number of people currently enrolled in training, number of people expected to apply and be approved for training, average cost of training, and conditions underlying the request. Further, the request should contain a list of active certifications including petition numbers, company names and locations.

An additional 15 percent for program administration will be added to all allocations of TAA formula and reserve funds and job search/relocation allowances. The funds for administering the TAA program will be included each time funds are allocated to states by ETA.

Finally, consistent with the TAA Annual Cooperative Financial Agreement, ETA will analyze quarterly cost information submitted by states on the Standard Form-269, Financial Status Report and may recapture funds where excessive unobligated balances are reported for two or more consecutive quarters.

5. **Action Required.** State Administrators are requested to transmit the SF-424 and ETA-9117 forms, and accompanying instructions, to the appropriate staff.

6. **Inquiries**. States should direct all inquiries to the appropriate regional office.
7. **Attachments**. SF-424 and ETA-9117 forms and instructions.

APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED	Applicant Identifier
Pre-application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION Legal Name:		Organizational Unit: Department:																													
Organizational DUNS:		Division:																													
Address: Street:		Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: First Name:																													
City:		Middle Name																													
County:		Last Name																													
State:	Zip Code	Suffix:																													
Country:		Email:																													
6. EMPLOYER IDENTIFICATION NUMBER (EIN): <div style="border: 1px solid black; width: 100px; height: 1.2em; margin-top: 5px;"></div>		Phone Number (give area code) Fax Number (give area code)																													
8. TYPE OF APPLICATION: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision </div> If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px;"></div> </div> Other (specify)		7. TYPE OF APPLICANT: (See back of form for Application Types) Other (specify)																													
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): <div style="border: 1px solid black; width: 80px; height: 1.2em; margin-top: 5px;"></div>		9. NAME OF FEDERAL AGENCY:																													
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:																													
13. PROPOSED PROJECT Start Date: Ending Date:		14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project																													
15. ESTIMATED FUNDING: <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;">a. Federal</td> <td style="width:10%;">\$</td> <td style="width:10%;"></td> <td style="width:10%; text-align: right;">.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> <td style="text-align: right;">.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td style="text-align: right;">.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td style="text-align: right;">.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td style="text-align: right;">.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> <td style="text-align: right;">.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td></td> <td style="text-align: right;">.00</td> </tr> </table>		a. Federal	\$.00	b. Applicant	\$.00	c. State	\$.00	d. Local	\$.00	e. Other	\$.00	f. Program Income	\$.00	g. TOTAL	\$.00	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: b. No. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$.00																												
b. Applicant	\$.00																												
c. State	\$.00																												
d. Local	\$.00																												
e. Other	\$.00																												
f. Program Income	\$.00																												
g. TOTAL	\$.00																												
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED. a. Authorized Representative		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes" attach an explanation. <input type="checkbox"/> No																													
Prefix First Name		Middle Name																													
Last Name		Suffix																													
b. Title		c. Telephone Number (give area code)																													
d. Signature of Authorized Representative		e. Date Signed																													

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Select Type of Submission.	11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).	12.	List only the largest political entities affected (e.g., State, counties, cities).
3.	State use only (if applicable).	13.	Enter the proposed start date and end date of the project.
4.	Enter Date Received by Federal Agency Federal identifier number: If this application is a continuation or revision to an existing award, enter the present Federal Identifier number. If for a new project, leave blank.	14.	List the applicant's Congressional District and any District(s) affected by the program or project
5.	Enter legal name of applicant, name of primary organizational unit (including division, if applicable), which will undertake the assistance activity, enter the organization's DUNS number (received from Dun and Bradstreet), enter the complete address of the applicant (including country), and name, telephone number, e-mail and fax of the person to contact on matters related to this application.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
7.	Select the appropriate letter in the space provided. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School District </div> <div style="width: 45%;"> I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) O. Not for Profit Organization </div> </div>	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
8.	Select the type from the following list: <ul style="list-style-type: none"> • "New" means a new assistance award. • "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. • "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision enter the appropriate letter: <div style="display: flex; justify-content: space-between; margin-left: 20px;"> <div style="width: 45%;"> A. Increase Award C. Increase Duration </div> <div style="width: 45%;"> B. Decrease Award D. Decrease Duration </div> </div> 	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		



1. State: _____

3. Total Amount of Funds Requested: \$ _____

a. Training: \$ _____

2. Report Period Ending: _____

b. Job Search/Relocation: \$ _____

4. FINANCIAL DATA: (Complete for each relevant fiscal year allocation)

Fiscal Year 200 ____ : Period Covered by this Report (Month, Day, Year): From ____ / ____ / ____ To: ____ / ____ / ____

	Admin	Job Search/ Relocation	Training	Program Total (2+3)	Grand Total (1+4)
	(1)	(2)	(3)	(4)	(5)
A. TAA Funds Received to Date.....	\$			\$	\$
B. Cumulative Obligations.....	\$	\$	\$	\$	\$
C. Unobligated Balance.....	\$			\$	\$
D. Cumulative Accrued Expenditures.....	\$	\$	\$	\$	\$

Fiscal Year 200 ____ : Period Covered by this Report (Month, Day, Year): From ____ / ____ / ____ To: ____ / ____ / ____

	Admin	Job Search/ Relocation	Training	Program Total (2+3)	Grand Total (1+4)
	(1)	(2)	(3)	(4)	(5)
A. TAA Funds Received to Date.....	\$			\$	\$
B. Cumulative Obligations.....	\$	\$	\$	\$	\$
C. Unobligated Balance.....	\$			\$	\$
D. Cumulative Accrued Expenditures.....	\$	\$	\$	\$	\$

Fiscal Year 200 ____ : Period Covered by this Report (Month, Day, Year): From ____ / ____ / ____ To: ____ / ____ / ____

	Admin	Job Search/ Relocation	Training	Program Total (2+3)	Grand Total (1+4)
	(1)	(2)	(3)	(4)	(5)
A. TAA Funds Received to Date.....	\$			\$	\$
B. Cumulative Obligations.....	\$	\$	\$	\$	\$
C. Unobligated Balance.....	\$			\$	\$
D. Cumulative Accrued Expenditures.....	\$	\$	\$	\$	\$

Trade Adjustment Assistance (TAA) Program
Reserve Funding Request Form

5. JUSTIFICATION FOR REQUEST:

CERTIFICATION: I certify that to the best of my knowledge and belief that the information provided herein is accurate and complete, and that report obligations are reflected in agency records.

Signature: _____ Title: _____ Date: _____

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. [Respondent's obligation to respond are required to obtain or retain benefits (Trade Adjustment Assistance Reform Act of 2002)]. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the U.S. Department of Labor, Division of Trade Adjustment Assistance, Room C-5311, Washington, D.C. 20210 (Paperwork Reduction Project 1205-0275).

**Trade Adjustment Assistance (TAA) Program
Reserve Funding Request Form**

INSTRUCTIONS FOR COMPLETING FORM ETA-9117

General Instructions

A separate funding template must be completed for each relevant fiscal year a State received program funds. For example, a State that received Trade Adjustment Assistance Program funding during the current fiscal year and two prior fiscal years, would be required to complete a template for each of the relevant fiscal years.

Trade Adjustment Assistance Program funds have a three-year life, the fiscal year in which they were allocated to the State, plus two subsequent fiscal years. For example, funds received during any given fiscal year are available for obligation and expenditure through September 30 of the succeeding two fiscal years, and all expenditures must be liquidated by December 31 of the third year. Grantees only have until the end of the life of the grant, September 30 of the third year, to fully expend the grant funds. Thereafter, they have 90 days to liquidate all accrued expenditures incurred prior to the end of the life of the grant. **Grantees can not continue to obligate or expend funds after the end of the life of the grant unless they receive a written grant modification from the Grant officer that extends the life of the grant.** Any remaining balances that are not liquidated by the end of the 3-year period will revert to the Treasury. States should not request additional funding if they have prior year funds available for obligation presuming the end of the life of grant has not occurred.

Specific Instructions

1. State - Self-explanatory.
2. Report Period Ending - Reflects the ending date of the month being reported.
3. Total Amount of Funds Requested - Self-explanatory.
4. Financial Data - This section reflects financial data on a fiscal year basis for TAA administration, job search and relocation allowances, and training as follows:
 - A. TAA Funds Received to Date - Enter the amount of Federally-obligated authority received by the State as of the end of the reporting period. Obligations can not exceed the amount of funds received by the State.
 - B. Cumulative Obligations - Represents the sum of accrued expenditures (Line D) plus the value of goods and services which have been ordered (purchase orders, contracts), but not received - also commonly referred to as undelivered orders or resources on order.
 - C. Unobligated Balance - Is equal to TAA Funds Received to Date minus Cumulative Obligations (Line A - Line B = Line C).
 - D. Cumulative Accrued Expenditures - Reflects cumulative accrued expenditures for each of the categories from the start of the fiscal year. Accrued expenditures represent the sum of cash disbursements made for goods and services received plus the value of goods and services received but not yet paid.

**Trade Adjustment Assistance (TAA) Program
Reserve Funding Request Form**

5. Justification for NOA - The justification should include:

- (a) the number of existing enrollees that require additional funding under this request; the amount of funding needed to cover existing enrollees through the current fiscal year; and the amount of funding needed to cover remaining length of training beyond the current fiscal year for existing enrollees;
- (b) the number of individuals with an approved training plan who have yet to enroll that require funding under this request; the amount of funding needed to cover these individuals through the current fiscal year; and the amount of funding needed to cover remaining length of training beyond the current fiscal year for these individuals;
- (c) the number of individuals requesting job search and relocation allowances through the current fiscal year under this request;
- (d) a certification listing which provides petition number, company name and location for individuals identified in the above-referenced categories who have requested training, job search and relocation allowances under this request;
- (e) the projected number of individuals without an approved training plan that may require funding under this request; and the amount of funding needed to cover these individuals through the current fiscal year;
- (f) a brief discussion of the conditions which give rise to the request; and
- (g) the expected performance outcomes for individuals who have received a TAA program funded service (entered employment, retention and wage replacement).

Additional sheets may be attached for the justification, if necessary.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION TAA
	CORRESPONDENCE SYMBOL ONR
	DATE July 14, 2004

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 2-03, Change 1

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: EMILY STOVER DeROCCO
Assistant Secretary



SUBJECT: Alternative Trade Adjustment Assistance (ATAA) for Older Workers
Questions and Answers

1. **Purpose.** To answer questions related to the administration of the Alternative Trade Adjustment Assistance (ATAA) program that have arisen since the issuance of Training and Employment Guidance Letter (TEGL) No. 2-03.

2. **References.**

- Trade Act of 1974 (Pub. L. 93-619, as amended)
- Trade Act of 2002 (Pub. L. 107-210)
- The Workforce Investment Act of 1998
- 20 CFR Part 617
- 29 CFR Part 90
- TEGL No. 11-02
- Unemployment Insurance Program Letter (UIPL) No. 24-03
- TEGL No. 2-03.

The amendments to the Trade Adjustment Assistance (TAA) program may also be referred to as the Trade Adjustment Assistance Reform Act of 2002 (the Act or the Trade Act). These amendments were included in Title I of the Trade Act of 2002.

3. **Background.** TEGL No. 2-03 provided interim operating instructions for states to use in implementing the ATAA program. Since the issuance of TEGL 2-03, the Department has received questions concerning the operation of the ATAA program. The attachment restates the questions raised and provides the answers to those questions.

RESCISSIONS	EXPIRATION DATE Continuing
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4. **Action Required.** State administrators should distribute this advisory to appropriate staff. States must adhere to the requirements of federal law that are contained in this advisory.
5. **Inquiries.** States should direct all inquiries to the appropriate ETA Regional Office.

Attachment: Alternative Trade Adjustment Assistance (ATAA) Questions and Answers

Attachment**ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE (ATAA)
QUESTIONS AND ANSWERS****Withholding**

1. Q: Are ATAA benefits taxable income?

A: Yes. ATAA wage subsidies are taxable income. You will need to issue a 1099 to recipients of the ATAA payments.

2. Q: Are pensions deductible from ATAA benefits, as with Unemployment Insurance (UI) payments?

A: No. The Trade Act of 1974, as amended, did not direct that pensions be included in the calculation of the ATAA wage subsidy.

3. Q: How do state workforce agencies (SWAs) determine whether to deduct court-ordered child support payments from ATAA payments?

A: ATAA payments are to be treated in the same manner as trade readjustment allowances (TRA). State laws regarding deductions of payments from UI and TRA must follow the Social Security Act (SSA). SSA Section 303(e)(1) defines "child support obligations" as "only includ[ing] obligations which are being enforced pursuant to a plan described in Section 454 of this Act which has been approved by the Secretary of Health and Human Services under part B of title IV of this Act." It therefore does not permit deductions for alimony or for child support in general, as provided by 20 CFR 617.55(h)(2), but only for child support obligations of the type specified. Unemployment Insurance Program Letter No. 45-89 (55 Fed. Reg. 1886 (1990)) explained in detail the deductions permitted under SSA Section 303(e)(2).

ATAA and UI

4. Q: Must the individual file for a UI claim in order to be eligible for ATAA? Does the worker have to be eligible for UI to be eligible for ATAA?

A: No. There is no provision in the Trade Act or TEGL 2-03 that requires an individual to apply for UI in order to be eligible for the ATAA program. Nor is there a provision that requires an individual to be eligible for UI. ATAA and UI are statutorily separate programs. Eligibility for neither program is dependent on the other program.

5. Q: Can the ATAA wage subsidy be considered as income for the purpose of establishing eligibility for future UI claims?

A: The Trade Act does not direct that wage subsidies be reported as “wages” for UI purposes. However, UI eligibility is governed by state law. Therefore, states may consult their own UI law to determine if ATAA meets the state definition of wages for UI purposes.

6. Q: How should the SWA administer recovery of UI overpayments from ATAA, or recovery of ATAA payments from UI?

A: ATAA payments are to be treated in the same manner as trade readjustment allowances (TRA). Recovery of a state UI overpayment from ATAA is governed by SSA Section 303(g) (2), requiring an agreement with the Department before the state may offset ATAA to recover the state UI overpayment. Further, if the state does have such an agreement with the Department, there is no limit on the amount of the offset from ATAA.

Section 243(a)(2) of the Trade Act limits each deduction from state UI to recover a TAA or ATAA overpayment to a maximum of 50% of the payment. However, that applies only to the offset of state UI to recover a TAA or ATAA overpayment. It does not apply to the offset of TAA or ATAA to recover a state UI overpayment.

7. Q: Does the ATAA program in any way alter UI rules in a state?

A: No. ATAA does not change any UI rules. UI must still be administered in accordance with established instructions. A person receiving ATAA has returned to work and should be treated like anyone else returning to work. UI payments are not part of the calculation to determine the ATAA wage subsidy.

8. Q: If an ATAA recipient is laid off, can he/she reopen a UI claim that still has an unexpired benefit year? Does the state issue a written determination to the individual suspending ATAA until he/she is reemployed?

A: The worker may reopen his/her UI claim that still has an unexpired benefit year or file a new claim if the benefit year has ended in accordance with state UI law. In accordance with TEGL 2-03, Section F, a determination suspending the ATAA benefit is required if the individual attempts to claim ATAA benefits after separation. If the worker is reemployed, he/she may file a new ATAA application.

9. Q: Will the state UI office have the responsibility for administering the wage subsidy for ATAA recipients as they do for TRA recipients?

A: States have the choice of where they want to locate the responsibility. However, the organizational placement of this payment by the state must meet Governmental Accounting Standards Board requirements.

10. Q: Do UI laws apply to ATAA recipients?

A: No. An ATAA recipient is not eligible for UI because he/she is employed on a full-time basis as defined by state law in the state the worker is employed. Unless otherwise specified in an official advisory or regulation, no UI-related issue should influence the continued receipt of the wage subsidy. If, however, the ATAA recipient becomes unemployed and files for UI, then the state UI law would be applied to any potential UI entitlement.

11. Q: Is an ATAA recipient eligible for a new UI claim once the current benefit year expires?

A: No. An ATAA participant is not eligible for UI unless he/she becomes unemployed, at which time he/she becomes ineligible for ATAA.

12. Q: Where does the ATAA wage subsidy fit into the priority of payments, i.e., UI, Temporary Extended Unemployment Compensation (TEUC), basic TRA, additional TRA, and remedial TRA?

A: ATAA does not fit into this priority of payments because it is not related to UI. UI and ATAA are two separate programs that operate independently. UI is for individuals who are unemployed; ATAA is for individuals who are employed.

Full-Time Employment

13. Q: Must re-employment for ATAA purposes be “UI covered” employment?

A: No. Full-time employment need not be UI covered employment. However, since Section 246 of the Trade Act requires that a participant in ATAA must be employed full-time as defined by state law, the state workforce agency (SWA) must determine if the employment (including self-employment) obtained by the potential ATAA recipient meets the definition of full-time employment under the applicable state law.

14. Q: Can self-employment or work involving wages plus commission or piece work be considered full-time employment for the purpose of establishing ATAA eligibility?

A: Yes. Self-employment, work involving wages plus commission, or piece work can be considered full-time employment for the purpose of establishing ATAA eligibility if such employment meets the definition of full-time employment as defined by the state.

15. Q: If self-employment, work involving wages plus commission, or piece work qualify as reemployment, how would the income derived from these types of employment be used in calculating the ATAA wage subsidy?

A: The SWA should determine an approximation of the hourly wage and apply the approximation when calculating the wage subsidy in accordance with procedures established in TEGL 2-03, Section G.

16. Q: If a worker applying for ATAA is hired by a temporary agency for a two-week period, should the SWA deny ATAA benefits because it is a short-term temporary assignment?

A: No. The ATAA program addresses full-time employment without distinction between temporary and permanent employment. This puts additional responsibility on the SWA

caseworker who must inform the ATAA applicant that receipt of an ATAA wage subsidy gives up all future rights to TRA, job search allowances, and training. Since in this instance the temporary employment expires after two weeks, the worker needs to be advised that ATAA payments will cease at the end of the two weeks, as will eligibility for the Health Coverage Tax Credit (HCTC).

17. Q: Are workers participating in on-the-job training (OJT) under TAA or WIA eligible for the ATAA program?

A: No. While such training is potentially consistent with state definitions of full-time employment, the federal government is already subsidizing a portion of the worker's wages. Payment of the ATAA wage subsidy would essentially be "double dipping." This is true whether funded by TAA, WIA, or any other federal training program. Moreover, if funded by TAA, participation in OJT training automatically precludes eligibility for ATAA.

However, if a participant in WIA-funded OJT (or any federally subsidized employment from any funding source except TAA) completes his/her training and obtains full-time unsubsidized employment before the end of the 26-week ATAA eligibility period, the individual could be eligible for an ATAA wage subsidy.

18. Q: In the event that an ATAA recipient's hours are reduced to less than full-time, but he or she remains employed by the employer, does he or she lose ATAA benefits while working less than full-time?

A: Yes. Section 246 of the Trade Act requires that an individual be employed full-time as defined by state law. Therefore, any individual whose hours are reduced below full-time, as defined by state law, loses his/her ATAA benefits, including HCTC eligibility. It should also be noted that such an individual remains potentially eligible for ATAA for a period of up to two years from the date of qualifying reemployment, should such individual return to full-time work.

19. Q: Assume that an ATAA participant, who is employed full-time, is on unpaid leave for two days during a specific week. Would the individual be considered to be employed full-time during this week and eligible for an ATAA wage subsidy?

A: The state must look to state law to determine whether this meets the definition of full-time employment.

Continuing Eligibility

20. Q: Section F (Continuing Eligibility) of TEGL 2-03 states that "In the event of a period of unemployment, workers will need to complete a new Individual Application for ATAA upon reemployment." If an employer has a regularly scheduled shutdown for one or two weeks, would the ATAA recipient have to reapply for the wage subsidy after the shutdown is complete or is reapplication necessary only when an individual is laid off and finds new employment?

A: The state must look to state law to determine whether this meets the definition of full-time employment. If it is not inconsistent with state law, in cases where the workers are paid their regular wage during the period of the shutdown, this does not disqualify them from receiving ATAA. As indicated in Section F (Continuing Eligibility) of TEGL 2-03, not receiving wages for one full week is considered unemployment and makes a worker ineligible for

ATAA. Moreover, during a regularly scheduled shut-down for a two-week period where a worker is not receiving wages, the worker may be eligible for UI for that two-week period. In any case, the worker would not be eligible for ATAA during this period unless wages were being paid during this period by the employer.

21. Q: If a person receiving an ATAA wage subsidy quits or is fired from his/her job, and finds another job, can he/she resume receiving the ATAA payment?

A: Yes. In accordance with TEGL 2-03, Section F, a worker can reapply for ATAA when he/she obtains subsequent employment for up to two years from the date of original reemployment.

22. Q: Are all wages and hours from all employment (including overtime) to be included in the calculation of the wage subsidy and the calculation of the annual reemployment wage to determine if the \$50,000 limit is exceeded for determining ATAA eligibility?

A: As provided in TEGL 2-03, Section G, overtime wages are not included in the calculation of the annualized pre-separation or reemployment wage for determining eligibility for, and the amount of, the ATAA wage subsidy. Wages from all employment, excluding overtime pay, would be included in the annualized wage calculation for both the pre-separation wage and the reemployment wage.

23. Q: If a worker had a full- and part-time job and is laid off from the full-time position due to foreign trade, would his/her part-time wages be included in the formula for calculating pre-separation wages?

A: Yes. Wages from all employment, full- or part-time, are taken into account when calculating the ATAA wage subsidy.

24. Q: Why are full- and part-time jobs used to determine a worker's annual wages for calculating an ATAA wage subsidy?

A: Section 246 of the Trade Act provides that the wage subsidy provides 50 percent of the difference between the wages received by the worker from reemployment and the wages received by the worker at the time of separation. The statute does not specify that the reemployment wages include only a single job or that the pre-separation wages are only those earned in the adversely affected employment.

25. Q: Why are overtime wages excluded from a worker's annual wage calculation in determining his or her ATAA wage subsidy?

A: Overtime wages are excluded due to their sporadic nature and the difficulty of projecting the level of such wages. Further, it avoids placing the worker in the awkward position of choosing whether to accept overtime hours where he/she either risks losing the ATAA wage subsidy or his/her job. Such a position is contrary to sound business-friendly practice.

26. Q: TEGL 2-03 does not permit telephone certification for establishing continuing eligibility. Documentation of employment, hours and wages must be provided at each continuing eligibility verification session. Does this requirement apply in those instances where the employer telephones with the necessary verification information and the results of that call are documented by state or local TAA staff?

- A: Yes. The requirement for documentation of employment, hours, and wages provides hard evidence of the worker's employment and serves as a deterrent to fraud. However, the worker could send a copy of his/her check stub or a letter from the employer by mail or fax if unable to physically visit the state office.

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Amount and Frequency of Payments

27. Q: TEGL 2-03 requires that the ATAA recipient will receive at least a minimum monthly payment. Can you explain what this means?

A: It means that the ATAA wage subsidy may be paid on a weekly, biweekly, or other payment frequency but at a minimum must be paid monthly. This allows the state to determine what type of payment frequency is most compatible with the systems it currently uses to pay benefits to recipients. Having at least a monthly payment frequency does not mean that the worker must receive some minimum amount each month.

28. Q: Is there a minimum or maximum weekly benefit amount that can be paid?

A: No. The benefit amount is based on the calculation of the ATAA wage subsidy provided in TEGL 2-03 and the frequency of the payment.

29. Q: Can the amount of the ATAA wage subsidy fluctuate during the course of the two- year eligibility period?

A: Yes. The amount of the ATAA wage subsidy may vary week by week based on a change in the hours paid, or hourly wage or wage approximation. The SWA must recalculate the amount of the ATAA wage subsidy every time the individual returns for the monthly (or more frequent) verification of continuing eligibility in accordance with TEGL 2-03, Section G.

30. Q: In calculating an individual's ATAA payment, how does the SWA define the payable period for an ATAA wage subsidy?

A: In accordance with TEGL 2-03, Section G, the payable period is at the option of the state but in no case should it be less frequently than monthly.

31. Q: How do severance pay and wages in lieu of layoff notice (e.g., 60 day WARN notice or other employer separation notice) affect the ATAA wage subsidy calculation?

A: Severance pay and wages in lieu of layoff notice have no effect on the ATAA wage subsidy because the ATAA calculation should be based on the hourly wage and hours worked during the last full week of employment as described in TEGL 2-03, Section G. Wages received as severance or in lieu of layoff notice should not be part of the calculation.

32. Q: What documentation is acceptable for the purposes of establishing both initial and continuing eligibility?

A: Depending on the specific eligibility criterion, documentation may include materials such as a drivers license, birth certificate, copy of job offer letter, check stub, document referring to date of qualifying separation, supporting statement from the employer, annual earnings statements, W-2 forms, and/or other official documentation.

33. Q: If a worker earned \$50 per hour in pre-separation employment, and later takes a job at XYZ Corporation at \$10 an hour, would the worker receive an ATAA wage subsidy of \$800 per week?

A: Yes, but in this example the worker will reach the \$10,000 wage subsidy limit in approximately 12 weeks, assuming a 40-hour week in both the pre-separation employment and reemployment. There is an incentive for workers to take a job at wages as close to their pre-separation wage as possible in order to prolong the period in which they receive the ATAA wage subsidy and correspondingly prolong eligibility for HCTC.

34. Q: Do SWAs need to keep a computerized record of all information needed to calculate and pay an ATAA wage subsidy or can manual methods be utilized?

A: The state has the option to maintain computerized or manual record systems.

Funding Source

35. Q: What is the funding source for ATAA in Fiscal Year (FY) 2004 and are changes expected for FY 2005?

A: The funding source for ATAA wage subsidies is the Federal Unemployment Benefit Account (FUBA). The administration of ATAA wage subsidies will be paid from the State Unemployment Insurance and Employment Service Operations (SUIESO) account. Instructions for accessing the SUIESO account for administrative purposes were transmitted to the states in Unemployment Insurance Program Letter (UIPL) 14-04 on March 1, 2004. Once the methodology is finalized, it will be made available to states. In addition, TAA training and associated administrative costs, TRA payments, and job search and relocation allowances are funded from FUBA. Administration for TRA payments is funded through SUIESO. Changes are not expected for FY 2005, but if they occur an official announcement will be prepared.

For FY 2004, the total amount available for the wage subsidy program is \$10 million. The FY 2005 budget requests an increased amount for the wage subsidy program. This request is pending congressional action and has not been approved.

Eligibility Period/Retroactivity

36. Q: Since the impact date is a year before the petition date, some workers who are certified eligible to apply for ATAA will have been separated as much as a year before the certification and will have become reemployed well before the certification is issued. In these cases, if workers apply and qualify for ATAA, can they receive a retroactive payment for the period they were employed prior to the date of ATAA certification? Could these workers receive a lump-sum payment of \$10,000 if the difference between pre-separation and reemployment wages were sufficient to warrant such a payment? Would this also apply to workers who do not apply for the subsidy until the end of the eligibility period?

A: TEGL 2-03, Section E, provides that the two year eligibility period for receiving ATAA payments begins with the first day of the ATAA qualifying reemployment and that the individual has two years from that date to apply. This means that the payments may be made retroactively if the worker has obtained qualifying reemployment within 26 weeks of layoff and later applies for the program. In addition, a lump-sum payment is possible if the difference between pre-separation and reemployment wages were sufficient to warrant such a payment.

37. Q: What is the rationale for allowing workers two years from their date of qualifying reemployment to file their application for ATAA?

A: TEGL 2-03, Section E, states that the application for ATAA must be filed within two years of the first day of qualifying reemployment. This parallels Section 246 of the TAA Reform Act of 2002, which provides that the ATAA wage subsidy may be paid over a two-year period.

Initial Eligibility

38. Q: Must a worker be working or just offered full-time work within 26 weeks of their date of separation to be eligible for an ATAA wage subsidy?

A: TEGL 2-03, Section E, states that the worker must obtain reemployment by the last day of the 26th week after the worker's qualifying separation from TAA/ATAA certified employment. This means that the worker's first day of employment must have occurred during the 26-week period.

39. Q: ATAA eligibility requires that the worker may not return to similar work for the employer from whom he/she separated. Does the state define "similar" work?

A: Yes. When an ATAA applicant accepts work with their layoff employer at a different location, the state is responsible for determining whether the work is similar. In addition, the individual cannot return to the division/facility from which he/she was separated, even if the work is not similar.

40. Q: If a worker applies for ATAA and is denied eligibility because annual earnings are in excess of \$50,000, can the worker reapply and be found eligible for ATAA if he/she is separated from this job (voluntarily or otherwise) and finds new employment at less than \$50,000?

A: If the individual is issued a determination denying eligibility for an ATAA wage subsidy based on the first reemployment because the reemployment did not meet the conditions to qualify for an ATAA wage subsidy, and if the individual is subsequently separated and finds a new job that does meet the conditions for ATAA, then a new ATAA application will have to be submitted. In this case, since the first reemployment did not qualify the individual for ATAA it cannot be used to establish qualifying reemployment within 26 weeks. Therefore, the subsequent full-time employment must occur within the 26 weeks from the qualifying separation to be considered for the ATAA subsidy.

41. Q: In the event a worker applies for ATAA and is denied by virtue of being 49 years old, would the worker qualify when he/she turns 50 and is still reemployed?

A: TEGL 2-03, Section E, requires that an individual be 50 years of age at the time of reemployment to be considered for the ATAA wage subsidy. Therefore, a worker denied by virtue of being 49 years old would not qualify if he/she turns 50 and is still reemployed in the same job. However, in the unusual circumstance that the worker becomes separated from the initial reemployment and is reemployed again within 26 weeks from his/her qualifying separation and has turned 50, he/she may be eligible for the ATAA wage subsidy at that time.

Benefit Receipt and Point of Disqualification

42. Q: If a worker exhausts his/her UI entitlement prior to the 26-week deadline for obtaining reemployment for ATAA purposes, can that worker receive TRA without losing all future eligibility for ATAA?

A: Yes. TEGL 2-03, Section E, specifies that workers give up their right to ATAA when they receive TAA-approved training. If the worker has exhausted his/her UI eligibility associated with the first benefit period at the time of layoff, it is possible to receive TRA benefits with a training waiver during the 26 weeks between layoff and obtaining qualifying reemployment for ATAA. Receipt of TRA will not void their right to choose ATAA, nor will receipt of a job search allowance.

43. Q: Does participation in WIA training prior to or after TAA certification exclude the worker from eligibility for the ATAA program?

A: WIA training that is not TAA-approved does not disqualify someone from receiving the ATAA wage subsidy. TEGL 2-03, Section E, specifies that TAA-approved training does disqualify an individual from receiving the ATAA wage subsidy.

44. Q: What documentation is necessary to meet the requirement in TEGL 2-03 that a worker

must choose between TAA and ATAA participation?

A: While Section E of TEGL 2-03 does not specify a requirement for documenting a worker's choice between TAA and ATAA, it does indicate that receipt of the first ATAA wage subsidy or enrollment in training will attest to this choice. However, states are free to establish their own documentation requirements for this purpose.

45. Q: Is it true that workers do not give up rights to TAA benefits until they receive the first ATAA payment?

A. Yes.

Petition Process

46. Q: For ATAA purposes, when determining whether the worker group possesses “skills that are not easily transferable” to other employment, will the determination address the skills of all workers at the affected firm, only the separated workers, all workers over age 50, or only separated workers over the age of 50?

A: The determination addresses the skills of the petitioning worker group, which may include individuals both above and below age 50.

47. Q: What does “skills that are not easily transferable” mean?

A: “Skills that are not easily transferable” refer to a set of skills that do not enable a worker to quickly obtain employment in a similar kind of work (e.g., a job at an equal or higher wage and skill level in the local labor market).

48. Q: May petitioners provide additional documentation in support of the TAA or ATAA petition?

A: Yes. Petitioners may, and are encouraged to, submit documentation that supports the specific criteria for TAA and/or ATAA certification with their petition.

Existing Certifications

49. Q: Is there a mechanism to add a request for ATAA certification to a petition that is already in process?
- A: Yes. A request for ATAA certification can be made on a petition that has been received but is still under investigation. In such cases, the petitioner(s) must withdraw the petition and resubmit it with a request for ATAA certification because the Trade Act requires that an ATAA program request be made at the time the petition is filed. This would, however, change the impact date and may lead to workers laid-off more than one year prior to the date of the resubmitted petition being ineligible for TAA or ATAA certification.
50. Q: Is there a mechanism to review a TAA certification in order to add an ATAA certification where a request for ATAA was not indicated on the original petition?
- A: No. TEGL 2-03 provides that a request for ATAA consideration must be made at the time the petition is filed and is consistent with Section 246 of the Trade Act, as amended.

Agent State/Liable State

51. Q: What are the responsibilities of the agent state and liable state in administering the ATAA program?
- A: For ATAA purposes, the liable/agent state relationship applies only when a worker loses a job in one state, becomes reemployed in another, and is eligible for the ATAA wage subsidy. Under the ATAA program, the liable state is the same as the liable state for the regular TAA program, as described in 20 CFR 617.26(a). In most cases, the liable state is the state where the worker was working and separated from employment. The agent state is the state in which the worker is reemployed. The distinction has nothing to do with the state where the worker resides.

The responsibilities of the liable state include making all determinations of ATAA individual eligibility, issuing all redeterminations of individual eligibility and decisions on appeal, making the ATAA wage subsidy payments, paying relocation allowances, verifying employment, transmitting names of "eligible ATAA recipients" to the HCTC program office in the Internal Revenue Service (IRS), and completing all reports.

The responsibilities of the agent state are cooperating fully with the liable state and assisting the liable state in carrying out its activities and functions. The definition of full-time work for all ATAA participants working in the state is the responsibility of the agent state. Other responsibilities include providing interstate ATAA applicants with ATAA program information, assisting with filing applications, gathering information and forwarding it to the liable state, and providing the liable state with information needed to make determinations of ATAA individual eligibility initially and on appeal.

Section 426 of the Trade Act specifies that the determination of full-time is based on the state law of the state where the individual is employed. Therefore, as indicated by the above, the liable state will have to make ATAA eligibility determinations based on the agent state's law. There will be instances where the agent state and liable state have different definitions of full-time employment. In these cases, the liable state will find it necessary to use the agent state's definition of full-time employment in making the eligibility determination for the

ATAA program.

HCTC

52. Q: If a worker loses eligibility for ATAA due to separation from employment, does the worker lose HCTC eligibility?

A: Yes. The person is only eligible for HCTC for any month in which he/she received an ATAA payment. However, Section 35 of the Internal Revenue Code of 1986, as amended, provides eligibility for a grace period of one calendar month after the month in which the worker stops receiving the ATAA wage subsidy.

53. Q: Does receipt of only a relocation allowance under the ATAA program make the individual worker an “eligible ATAA recipient” for HCTC purposes for that month?

A: No. The definition of an “eligible ATAA recipient” provided in Section 35 of the Internal Revenue Code is an individual receiving the wage subsidy for that month.

Waivers

54. Q: Are there reasons where it would be appropriate to issue training waivers to ATAA-eligible individuals?

A: Workers who are interested in ATAA but do not yet have qualifying reemployment may wish to preserve their option to choose between TAA and ATAA while they search for ATAA-qualifying reemployment, or they may need to access the HCTC. In cases where one of the waiver criteria is met, a waiver could be used to establish HCTC eligibility or to preserve the worker’s option to access regular TAA benefits if he/she is unable to secure appropriate ATAA-qualifying reemployment.

Section E of TEGL 2-03 describes the various options available in granting waivers for these purposes. The use of waivers should be evaluated carefully and should also be consistent with guidance contained in TEGL 11-02 and 11-02, Change 1.